

**GOVERNMENT OF TELANGANA
ABSTRACT**

Backward Classes Welfare Department – Appeal Petition filed under Telangana (SC, ST & BC) Regulation of issue of Community Certificates Act, 1993 and Rules 1997 by Mr.Javed Parvaiz Khan, S/o Gafoor Khan, R/o Kumurambheem Asifabad District - Stay Petition Vacated and Appeal Dismissed - Orders – Issued.

BACKWARD CLASSES WELFARE (B) DEPARTMENT

G.O.Rt.No. 66

**Dated: 17-04-2023
Read the following:-**

1. Proceedings.No.C2/201/2021, dt:23.05.2022, of the Collector & District Magistrate, Kumurambheem Asifabad.
2. Appeal Petition filed by Mr.Javed Parvaiz Khan, S/o Gafoor Khan, R/o Kumurambheem Asifabad District, dated: Nill.
3. Government Memo.No.1470/B/A2/2022, dated:26.03.2022.
4. Orders of the Hon'ble High Court for the State of Telangana, Hyderabad W.P.No.29466 of 2022, dated:18.07.2022.
5. From the Collector & District Magistrate, Kumurambheem Asifabad District, Lr.No.C2/201/2021, dt:16.08.2022.
6. Government Memo.No.1470/B/A2/2022, dated:26.03.2022.

ORDER:

In the reference 1st read above, the District Collector, Magistrate, Kumurambheem Asifabad has issued orders cancelling the Shaik (BC-E) Caste Certificates No.CND021503657220, dated:21.11.2015 and CND021710790866, Dated:21.12.2017 which were issued falsely to Mr. Javed Parvez Khan S/o Gafoor Khan R/o Kagaznagar Town and Mandal of Kumurambheem Asifabad, as the individual has obtained the above caste certificate fraudently by hiding the caste of his father who belongs to Muslim community Sub caste Pathan (OC) Category.

2. In the reference 2nd read above, Mr.Javed Parvaiz Khan, S/o Gafoor Khan, R/o Kumurambheem Asifabad District has filed appeal petition to Government on the orders passed by the District Collector, Karimnagar District. The appellant in his Appeal Petition has submitted the following grounds in support of his claim:

- i. The Gazette notification of the Collector & District Magistrate Kumurambheem Asifabad is against the facts, contrary to law, contrary to material on record and against probabilities of the case and thus it is liable to be set-aside.
- ii. The District Collector miserably failed to conduct proper enquiry before cancelling the community certificate of the Appellant. The Respondent/Collector did not examine the proper witness in the presence of the appellant. He totally relied upon the reports submitted by the Tahsildar, Kaghaznagar and RDOs. The Tahsildar, Kaghaznagar had recorded the statement of Mr.Abdul Waheb, president of Muslim Welfare Committee, Kaghaznagar on 18.05.2019 without any notice and in the absence appellant. The RDO also recorded the statement of the same person Mr. Abdul Waheb in the absence of the Appellant without giving opportunity to appellant to question the witness. But the Repondents/Collector has taken the same as material evidence.
- iii. The Respondent/Collector ought to have consider the helpless condition of the father of the Appellant to prove himself as Shaik BC-E community, who migrated and settled at Appellant grandmother's house. The Respondent/Collector did not enquire the paternal community of the Appellant and did not consider the maternal community of the appellant. Merely relied upon reports of Tahsildhar and RDO and opinions of the higher officials.

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- iv. The Respondent/Collector has concluded the enquiry without proper procedure by giving reasonable opportunity to the appellant to participate in the enquiry and did not comply the Principles of Nature Justice while conducting the enquiry. The Respondent/Collector conducted a pre-decided enquiry merely to comply the orders of Hon'ble High Court in W.P.No.20289/2020 filed by Mr. Shaik Wajidur Rahaman. After completion of enquiry, the Respondent/Collector did not supply a copy of enquiry report to respond the appellant and quit against the Principles of Natural Justice.
- v. If the Collector comes to a conclusion that the caste certificate was obtained fraudently, he shall give a notice to the person likely to be affected and after considering the representation he can publish the gazette notification. But in the present case, no notice was issued to the Appellant before cancelling his caste certificate and no opportunity was given to make a representation on the decision of the Collector before publishing gazette notification.
- vi. The Respondent/Collector wrongly come to conclusion that the appellant obtained the caste certificate fraudently by hiding his fathers caste who belongs to Pathan (OC) community and he does not belong to "Shaik (BC-E)" community without any basis except the statement of Mr. Abdul Waheb and a complaint of from outsiders.

3. In the reference 3rd read above, Government have requested the Collector & District Magistrate, KumuramBheem Asifabad District to send para-wise remarks on the Appeal Petition submitted by Mr. Javed Parvaiz Khan, S/o Gafoor Khan R/o KumramBheem Asifabad District along with connected original records (including both Current and Note File) to Government for taking further action in the matter.

4. In the reference 4th read above, the Hon'ble High Court for the State of Telangana, Hyderabad in W.P.No.29466 of 2022, dated:18.07.2022, has granted ***interim stay of operation of proceedings No.C2/201/2021 dated:23.05.2022, issued by the District Collector, KumuramBheem Asifabad and also the consequential notification published in KumaramBheem Asifabad District Gazette Part-I Extraordinary Notification No.262, dated:25.05.2022.***

5. In the reference 5th read above, the Collector & District Magistrate, KumuramBheem Asifabad District, has furnished the para-wise remarks on the Appeal Petition submitted by Mr. Javed Parvaiz Khan, S/o Gafoor Khan R/o KumramBheem Asifabad District along with connected original records (including both Current and Note File) to Government.

6. Government have examined the original records obtained from the Collector & District Magistrate, KumuramBheem Asifabad District and hearing was conducted on 03.04.2023 and the appellate authority heard the matter in view of the High Court orders (as delegated by the Hon'ble Minister for BC Welfare). No stay is granted, as the Collector orders are very clear. However, the main appeal petition is posted on 11.04.2023 at 4.00 PM for passing orders.

7. Finally the case was appraised on 11.04.2023, ***the Appellate authority i.e., the Hon'ble Minister for BC Welfare*** was given an opportunity to the appellant for submitting ***the relevant documents to support his claim.*** The appellant has stated orally that, his father has migrated to his mother house and he stayed with mother's family only and their family belongs to Shaiks and not Pathan and he has not submitted any relevant documents in his favour.

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8. Government after careful examination of the matter, hereby dismiss the stay petition and main petition and the proceedings, of **the Collector & District Magistrate, KumramBheem Asifabad** dated:23.05.2022 ***holds good.***

[BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA]

**B. VENKATESHAM
PRINCIPAL SECRETARY TO GOVERNMENT**

To
Mr. JavedParvaiz Khan, S/o Gafoor Khan
R/o KumramBheemAsifabad District through the DBCDO,
KumramBheemAsifabad District.
The District Collector, KumramBheem Asifabad District
Copy to:-
The Commissioner of BC Welfare, Telangana, Hyderabad.
The P.S. to the Hon'ble Minister for BC Welfare.
Sri Shaik Wajidur Rahaman S/o Shaik Mahboob
through the DBCDO, KumramBheem Asifabad District.
SC/SF

//FORWARDED:: BY ORDER//

SECTION OFFICER